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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,654	02/20/2004	Kosei Takano	1095.1296	3479
21171 7590 08/09/2007 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
			EXAMINER ADAMS, CHARLES D	
			ART UNIT 2164	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,654

Applicant(s)

TAKANO ET AL.

Examiner

Charles D. Adams

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Remarks

1. In response to communications filed on 26 April 2007, claim 9 is amended.
Claims 1-5 and 8-9 are pending in the application.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-5 are rejected under 35 U.S.C. 101 because The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive

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material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.").

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Judd et al. (US Patent 65,602,982).

As to claim 9, Judd et al. teaches:

Accepting activation of a learning button on a transaction screen (see 4:54-5:5);

and

Displaying a learning screen corresponding to the transaction screen on the terminal device, in response to the activation (see 4:54-5:5).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hadden et al. (US Pre-Grant Publication 2003/0187723) in view of Judd et al. (US Patent 5,602,982).

As to claim 1, Hadden et al. teaches:

Storing an amount of transaction work which the employee has performed using the terminal device (see paragraphs [0035]-[0036]);

Hadden et al. does not explicitly teach:

Displaying a learning screen on the terminal device in response to a request for transaction learning from the employee;

Judd et al. teaches:

Displaying a learning screen on the terminal device in response to a request for transaction learning from the employee (see 4:22-30);

Hadden et al. as modified teaches:

Storing start and end times of the transaction learning which the employee has received (see paragraph [0165]);

Calculating, from the amount of transaction work performed before the start time of the transaction learning and the amount of transaction work performed after the end time of the transaction learning, an efficiency of transaction work performed after the end time of the transaction learning relative to the transaction work performed before the start time of the transaction learning (see Hadden et al. paragraphs [0038]-[0039] and [0042]);

Displaying a transaction screen on the terminal device to permit the employee to perform the transaction (see Judd et al. 4:54-5:5); and

Displaying, on the terminal device, the learning screen enabling the employee to learn about the transaction on the transaction screen when the request for the transaction learning is made from the terminal device on the transaction screen wherein a learning button for requesting the transaction learning is displayed on the transaction screen (see Judd et al. 4:54-5:5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hadden et al. by the teaching of Judd et al., since Judd et al. teaches that "the universal automated training and testing system of the invention provides a much improved way for training a user to user a software application" (see 3:6-9).

As to claim 2, Hadden et al. as modified teaches wherein the employee whose efficiency of the transaction work is calculated is specified by a supervisor who

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supervises the transaction (see Hadden et al. Figure 2A, "Identify Employee", and paragraphs [0070]-[0075]).

As to claim 3, Hadden et al. as modified teaches wherein said learning program further causes the computer to perform the process of picking out the employee whose efficiency of the transaction work is not higher than a predetermined value (see Hadden et al. paragraphs [0036] and [0047]-[0048]).

As to claim 4, Hadden et al. as modified teaches wherein said learning program further causes the computer to perform the process of picking out the transaction learning which failed to increase the efficiency of the transaction work up to a predetermined value (see Hadden et al. paragraph [0039]).

As to claim 8, Hadden et al. teaches:

Storing an amount of transaction work which the employee has performed using the terminal device (see paragraphs [0035] and [0036]);

Hadden et al. does not teach displaying a learning screen on the terminal device in response to a request for transaction learning from the employee;

Judd et al. teaches displaying a learning screen on the terminal device in response to a request for transaction learning from the employee (see 4:22-30);

Hadden et al. as modified teaches storing start and end times of the transaction learning which the employee has received (see paragraph [0165]); and

Calculating, from the amount of transaction work performed before the start time of the transaction learning and the amount of transaction work performed after the end time of the transaction learning, an efficiency of the transaction work performed after the end of the transaction learning relative to the transaction work performed before the start time of the transaction learning (see paragraphs [0038]-[0039] and [0042]).

Displaying a transaction screen on the terminal device to permit the employee to perform the transaction (see Judd et al. 4:54-5:5); and

Displaying, on the terminal device, the learning screen enabling the employee to learn about the transaction on the transaction screen when the request for the transaction learning is made from the terminal device on the transaction screen wherein a learning button for requesting the transaction learning is displayed on the transaction screen (see Judd et al. 4:54-5:5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hadden et al. by the teaching of Judd et al., since Judd et al. teaches that "the universal automated training and testing system of the invention provides a much improved way for training a user to user a software application" (see 3:6-9).

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hadden et al. (US Pre-Grant Publication 2003/0187723) in view of Judd et al. (US Patent 5,602,982) and further in view of Official Notice.

As to claim 5, Hadden et al. does not explicitly teach wherein the efficiency of the transaction work is calculated by subtracting the amount of the transaction work performed per unit time before the start time of the transaction learning from the amount of the transaction work performed per unit time after the end time of the transaction learning and dividing an obtained difference by the amount of the transaction work performed per unit time before the start time of the transaction learning.

However, the subject matter being claimed is simply a well known method of determining a percent change between two values:

$$PercentChange = \frac{(NewValue - OldValue)}{OldValue}$$

Using this formula would output the percentage that the New Value differed from the Old Value. Hadden et al. teaches calculating a percentage difference between output before an event (training), and output after an event (see paragraph [0042]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hadden et al. to include using the claimed formula, as it is well known to one of ordinary skill in the art.

Response to Arguments

9. Applicant's arguments with respect to claim 1-5 and 8-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles D. Adams whose telephone number is (571) 272-3938. The examiner can normally be reached on 8:30 AM - 5:00 PM, M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner